

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA 20061079
	)	
West Contra Costa Sanitary	)	ENFORCEMENT ORDER
Landfill, Inc.	)	
One Parr Blvd. and Garden	)	
Tract Road	)	Health and Safety Code
Richmond, California 94801	)	Section 25187
Respondent.	)	
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INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Enforcement Order (Order), with an Imminent and Substantial Endangerment Determination, to West Contra Costa Sanitary Landfill (Respondent).

1.2. Site. Respondent is the owner of the property located at One Parr Blvd., Richmond, CA 94801, Identification Number CAD041844002 (Site). This property is a part of County Assessor's Parcel Numbers 408-140-008, 408-140-009 and 408-140-013. A map of the Site is attached as Attachment A.

1.3. Permit/Interim Status. Permit History. The Respondent is operating under a Hazardous Waste Facility Permit for Post-Closure approved by the Department on July 9, 2003. Pursuant to the Hazardous Waste Facility Permit Respondent shall comply with the provisions of the California Health and Safety

Code Chapter 6.5 and Division 4.5 of Title 22, California Code of Regulations.

1.4. Jurisdiction. Sections 25187(a)(1) and 25187(b) of the Health and Safety Code (HSC) authorize the Department to order an action necessary to correct violations and assess a penalty whenever the Department determines that any person has violated specified provisions of the HSC or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto. HSC section 25187(h) authorizes the Department to issue an order that takes effect upon issuance if the Department finds that the violation(s) identified in the order may pose an imminent and substantial endangerment to the public health or safety or the environment.

#### FINDINGS OF FACT

The Department finds as follows:

2.1. The leachate from the Hazardous Waste Management Facility (HWMF) is classified as RCRA hazardous waste (waste code F039).

2.2. There have been releases of hazardous waste leachate from the HWMF. These releases are due to Respondent's failure to maintain an adequate leachate extraction and treatment system to establish and maintain an inward hydraulic gradient within the HWMF. These failures have resulted in migration of the hazardous waste leachate from the Respondent's HWMF into the groundwater

which recharges the adjacent slough and San Pablo Creek, located south and east of the facility. The slough and creek feed San Francisco Bay.

2.3. According to Respondent, the concentrations of hazardous waste constituents found in groundwater outside the HWMF are above concentration limits set in the Respondent's Hazardous Waste Facility Permit (1) or Water Quality Standards (2). The following is a partial list of Maximum Concentration Limits and the maximum levels of contaminants found in HWMF wells:

Well E-64

Compound	Concentration Limits (1) or Water Quality Standards (2) (micrograms/liter)	Maximum Levels Found in Well (3) (micrograms/liter)
<i>tert</i> -butyl alcohol	20	160
1,4-dioxane	40	130
Lead	8.1	88

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- (1) Concentration Limits were established in the Hazardous Waste Facility Permit.
- (2) Water Quality Standards were taken from Federal Register dated May 18, 2000 Part III Environmental Protection Agency, 40 CFR Part 131 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Rule
- (3) This data is from the 2/05 and 9/05 Corrective Action Groundwater Monitoring Program Reports. The maximum levels found in the wells for organic compounds are from data collected in 2004 and 2005, and for inorganic compounds are collected from data collected in 2003 and 2004.

Well E-43

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	74
Tetrahydrofuran	5	80

Well M-47

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	1500
Tetrahydrofuran	5	58
1,4-dioxane	40	540
Diethyl ether	5	20
Nickel	8.2	24
Copper	3.1	5

Well M-70

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	1600
Tetrahydrofuran	5	68
1,4-dioxane	40	2100
Diethyl ether	5	13
Nickel	8.2	25

Well M-72

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
Lead	8.1	22
Nickel	8.2	22

Well M-73

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
Nickel	8.2	20

Well M-74

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	73
Tetrahydrofuran	5	8.6
Lead	8.1	32
Nickel	8.2	12

Well M-79

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	140
1,4-dioxane	40	130

Well E-34R

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	590
1,4-dioxane	40	890
Napthalene	1	14
Nickel	8.2	12

Well PZ-15

Compound	Concentration Limits or Water Quality Standards (micrograms/liter)	Maximum Levels Found in Well (micrograms/liter)
<i>tert</i> -butyl alcohol	20	53
Nickel	8.2	20

2.4. The Corrective Action Groundwater Monitoring Program (CAGWMP) Reports show that the hazardous waste leachate levels within the HWMF are above the top of the slurry wall and significantly above the water levels outside the slurry wall. This has created a situation that is out of compliance with Respondent's existing Hazardous Waste Facility Permit and has and will continue to result in releases to the environment.

2.5. There are currently 28 extraction wells within the HWMF. At the time of the January 12, 2006, Department inspection, none of these wells were in operation, and only three of these wells were in operational condition. Area E-22R, an area located east of the HWMF, has an additional 16 extraction wells. At the time of the January 12, 2006, Department inspection, none of these wells were operational and none have ever been operated.

2.6. The Leachate Treatment System (LTS) was designed to treat hazardous waste leachate collected from the HWMF at a capacity of up to 20 gallons per minute (GPM). Based on Department observations and other data, the LTS has been inoperable for at least the month of January 2006. Before that time the LTS operation has been periodic with significant periods of non-operation based on myriad malfunctions and operational problems. Based on the operation of the LTS since its inception, it has never processed more than 2 GPM averaged over a year based on full-time operation.

2.7. Based on a May 1997 Corrective Action Groundwater Monitoring Program Report on the HWMF, additional extraction wells are needed to effectively produce an inward hydraulic gradient across the entire HWMF slurry wall. This report, by Respondent's consultant Emcon, states that a total of 55 extraction wells would be needed to produce an inward hydraulic gradient.

DETERMINATION OF VIOLATIONS AND  
IMMINENT AND SUBSTANTIAL ENDANGERMENT

The Department has determined that:

3.1. Respondent violated HSC section 25202(a), in that Respondent failed to comply with their Hazardous Waste Facility Permit, by failing to operate the HWMF to establish and maintain an inward hydraulic gradient of leachate within the HWMF. All 28 extraction wells in the HWMF are currently not operating. Hazardous waste leachate (RCRA F039 waste) is migrating from the HWMF. The hazardous waste leachate has topped the slurry wall and has migrated towards San Pablo Creek, a slough, and San Francisco Bay. Respondent's hazardous waste LTS is non-operational.

3.2. The Department has further determined that the foregoing violation of the Health and Safety Code poses an imminent and substantial endangerment to the public health and safety or the environment because there are commercial and

industrial developments nearby, public access to the adjacent slough and San Pablo Creek, and sensitive environmental receptors in the adjacent slough, San Pablo Creek and San Francisco Bay.

3.3. The hazardous waste leachate at the Site poses a public health risk should human contact occur with the hazardous waste.

The hazardous substances found in this hazardous waste leachate, and their attendant risks to human health are as follows:

*tert*-butyl alcohol [TBA] is a metabolite of methyl *tert*butyl ether, a carcinogen. TBA is an irritant to the skin, eyes, nose and throat and causes severe irritation to the respiratory system. There are no known reference values for this compound.

1,4-dioxane is an odoriferous, liquid that is classified by USEPA as a B2 carcinogen [probable human carcinogen]. It was frequently used as a chemical stabilizer for chlorinated solvents and ethers. It has an oral cancer potency factor of  $2.7 \times 10^{-2}$  (mg/kg-day)<sup>-1</sup> and an inhalation unit risk factor of  $7.7 \times 10^{-6}$  (µg/m<sup>3</sup>)<sup>-1</sup>[OEHHA]. It has a chronic [reference exposure level] REL of 3000 µg/m<sup>3</sup> and it affects the alimentary tract, kidney, and cardiovascular system.

Diethyl ether is a volatile compound that is a narcotic. There are no reference dose values for this chemical.

Naphtahlene is a semi-volatile, aromatic compound that has recently been classified as a suspected human carcinogen. It has a slope factor of  $1.2 \times 10^{-1} \text{ (mg/kg-day)}^{-1}$ . It is also a threshold toxicant with a reference dose of  $2 \times 10^{-2} \text{ (mg/kg-day)}$ .

Tetrahydrofuran is a volatile liquid that is a suspected human carcinogen. It has a cancer potency factor of  $7.6 \times 10^{-3} \text{ (mg/kg-day)}^{-1}$ . It is also a threshold toxicant affecting the liver and it has a reference dose of  $2.1 \times 10^{-1} \text{ (mg/kg-day)}$ .

Lead is a metallic element that is primarily a developmental toxicant. Lead is listed as a B2 carcinogen with a slope factor of  $8.5 \times 10^{-3} \text{ (mg/kg-day)}^{-1}$ . In California, the toxicological endpoint is developmental toxicity as indexed using LeadSpread. It has a threshold concentration for salt water organisms under the California Toxics rule of  $8.2 \text{ }\mu\text{g/l}$ .

Copper is a metal that is primarily an acute, threshold toxicant. It has a reference dose of  $4 \times 10^{-2} \text{ (mg/kg-day)}$ . It is quite toxic to fish and aquatic organisms. It has a threshold concentration for salt water organisms under the California Toxics Rule of  $3.1 \text{ }\mu\text{g/l}$ .

Nickel is a metallic element that under certain conditions is considered a known human carcinogen. Nickel refinery dust is a known human inhalation carcinogen with a cancer potency factor of  $8.4 \times 10^{-1} \text{ (mg/kg-day)}^{-1}$ . Nickel and nickel salts are also threshold toxicants with a reference dose of  $2 \times 10^{-2} \text{ mg/kg-day}$ .

It has a threshold concentration for salt water organisms under the California Toxics Rule of 8.2 µg/l.

#### SCHEDULE FOR COMPLIANCE

Based on the foregoing Determination Of Violation and Imminent and Substantial Endangerment, IT IS HEREBY ORDERED THAT:

4.1. Within 10 (ten) days Respondent shall repair all extraction wells for the HWMF and the E-22R Area, and associated control, conveyance, and monitoring systems. These wells must operate at the maximum practicable flow to provide the maximum leachate drawdown. Respondent shall not wait for repairs to the LTS to operate these wells.

4.2. Respondent must establish an inward hydraulic gradient across the slurry wall at the HWMF and at the E-22R Area within six months of the effective date of this Order. Specifically, this means that leachate levels in the observation wells (all wells not used as extraction wells) within these two areas must be below the level of the top of the adjacent slurry wall and demonstrate at least two feet of hydraulic head difference from the outside of the slurry wall to the inside of the slurry wall.

4.3. Respondent shall repair the LTS and associated control, conveyance, and monitoring systems within ten days of the effective date of this Order. Respondent shall continuously

maintain and operate the LTS at least at its designed capacity of 20 GPM.

4.4. Respondent shall ensure that the LTS is properly treating all hazardous waste constituents of concern, consistent with discharge limitations.

4.5. Respondent shall submit a workplan for Department approval to address the inadequate capacity of the LTS within 14 days of this Order. This workplan shall include an initial design for treatment, storage, and/or disposal necessary to manage and treat the increased quantity of hazardous waste leachate derived from the HWMF and E-22R Area. This increased quantity must equal the amount needed to establish and maintain an inward hydraulic in both areas within six months of the effective date of this Order, and should have sufficient flexibility to include additional extraction wells as required in section 4.6. In addition, this workplan shall include any requests for permit modifications, temporary authorization, or emergency permits needed from the Department to carry out the necessary work.

4.6. Respondent shall provide a workplan for Department approval within 30 days that recommends the number, placement, and design of extraction wells and conveyance system needed to produce the required inward hydraulic gradient within six months of the effective date of this Order.

4.7. Respondent shall provide the Department with monthly Corrective Action Compliance Reports, beginning one month after the effective date of this Order, continuing for one year. These reports shall describe the status of efforts to meet the requirements of this Order and data collected to support these efforts. The report shall also include as-builts for additional wells, all equipment installed, and a status of all the activities required in sections 4.1 - 4.6.

4.8. Pursuant to HSC Section 25187.2, Respondent shall reimburse the Department for the Department's costs incurred in overseeing the work required by this Order.

#### OTHER PROVISIONS

5.1. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Paul S. Kewin, Unit Chief  
Northern California Branch  
Statewide Compliance Division  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826

and

Ray Leclerc, Project Manager  
Permitting and Corrective Action Branch  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826

5.2. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Hazardous Waste Management Program Statewide Compliance, Section Chief Paul Kewin, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

5.3. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as it deems necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

5.4. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and

federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

5.5. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating a further imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

5.6. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

5.7. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of

any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

5.8. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that

request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction.

Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

5.9. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

5.10. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

5.11. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

5.12. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

5.13. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

5.14. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

5.15. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

5.16. Time Periods. "Days" for purposes of this Order means calendar days.

#### PENALTY

6. The Department is not assessing a penalty at this time in conjunction with the violations cited in this Order. The Department reserves all its rights to impose any fines, penalties, or other assessments by all lawful means and to take any other actions or pursue any other remedies available.

#### RIGHT TO A HEARING

7. Respondent may request a hearing to challenge this Order. Appeal procedures are described in the attached Statement to Respondent. Under HSC section 25187, a request for a hearing shall not stay the effect of this Order.

EFFECTIVE DATE

8. Pursuant to HSC section 25187(h), this Order is effective immediately on the date of issuance indicated below. As stated in Section 4 of this Order, the Department finds that the violation described in Section 3 of this Order may pose an imminent and substantial endangerment to the public health or safety or the environment.

Date of Issuance: 2/2/06

(Original signed by Paul S. Kewin

Paul S. Kewin, Unit Chief  
Northern California Branch  
Statewide Compliance Branch  
Hazardous Waste Management Program  
Department of Toxic Substances Control